

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JERMALL LILLY

v.

UNITED STATES OF AMERICA

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: CIVIL NO. CCB-15-1289
: Criminal No. CCB-07-064
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MEMORANDUM

Almost four years after his conviction on federal drug trafficking charges became final, federal prison inmate Jermall Lilly filed a motion to adopt his co-defendant David Ellerby's motion to vacate his sentence and conviction under 28 U.S.C. § 2255. The government responded, and Lilly was given the opportunity to reply, but has failed to do so.

Lilly's motion clearly is untimely under 28 U.S.C. § 2255(f), and he has shown no basis for equitable tolling of the one-year period of limitations. The records on which Ellerby relied were available to Lilly many years ago. Further, as to the merits, all of Ellerby's claims other than an individual issue as to the assistance provided by Ellerby's counsel, were denied by this court in an opinion issued July 21, 2015. (ECF 257, 258).

In sum, Lilly's motion is barred by limitations and there is no basis to issue a certificate of appealability under 28 U.S.C. § 2253(c). A separate order follows.

October 16, 2015
Date

/S/
Catherine C. Blake
United States District Judge